



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,084	01/18/2002	Frank Jay Hague	6653.36001	9828

21000 7590 09/26/2005

DECKER, JONES, MCMACKIN, MCCLANE, HALL &
BATES, P.C.
BURNETT PLAZA 2000
801 CHERRY STREET, UNIT #46
FORT WORTH, TX 76102-6836

EXAMINER

WEINSTEIN, STEVEN L

ART UNIT	PAPER NUMBER
----------	--------------

1761

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/052,084	Applicant(s) HAGUE, FRANK JAY	
	Examiner Steven L. Weinstein	Art Unit 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,10,11,13-15 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,10,11,13-15 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/16/05</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1761

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,10,11,13-15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ganoë ('528) in view of Lynch ('715), or vice versa, both further in view of applicant's admission of the prior art, further in view of Sherrill ('653), Frudakis et al ('474), Anderson et al ('420), and Axelrod ('609), further in view of Berends ('642) and Rodriguez (D'770) for the reasons fully and clearly stated in the Office actions mailed 4/21/04 and 11/4/05.

It is noted that the amendment introduces recitations which have appeared in the claims previously.

All of applicant's remarks filed 5/16/05 have been fully and carefully considered but are not found to be convincing. As noted previously, applicant is claiming a piece of folded pig skin that has been shaped to give the appearance of a pig's ear for use as a pet chew. As also noted previously, Ganoë teaches folded raw hide that has been shaped to give the appearance of recognizable objects such as bones. Claim 1 differs from Ganoë in the particular conventional skin used to make the product and the particular recognizable shape one has imparted to the skin. The art taken as a whole teaches it would have been obvious to substitute one conventional skin for another conventional skin since it was notoriously well known to impart to pig skin all kinds of shapes both for pet chews and, of course, all types of other products. As for the shape

Art Unit: 1761

that simulates a pig's ear, it is once again reiterated that once it was known to shape a material, the particular shape one chooses to impart to the material is seen to have been nothing more than an obvious matter of design. If one can make shapes such as bones, sticks, shoes, gloves, etc, there is no reason why one could not make an ear shape. It is not seen that one can predicate patentability on a shape of a material that simulates a recognizable object and whose only function is a function that is known for the material (i.e. as a pet chew). All of applicant's urgings in one form or the other, go back to the pig ear shape, which would have been obvious for the reasons of record. Finally, the amendment makes reference to the Declaration filed 9/27/04, but this Declaration has been addressed previously in the Office action mailed 1/14/05. It is urged that it would have been difficult to form the particular shape. The claims are directed to an article, and not a method of making the article. The art taken as a whole evidences the fact that shaped layered articles are well established in the art. How they are shaped, whether through folding and hand forming,, with or without a molding device with or without bonding materials , etc, are irrelevant to an article claim.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 1761

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven L. Weinstein whose telephone number is 571-272-1410. The examiner can normally be reached on Monday - Friday from 7:00AM to 2:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano, can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steve Weinstein
STEVE WEINSTEIN
PRIMARY EXAMINER 1761